

The opinion in support of the decision being entered today was not written for publication and is not binding precedent of the Board.

Paper No. 20

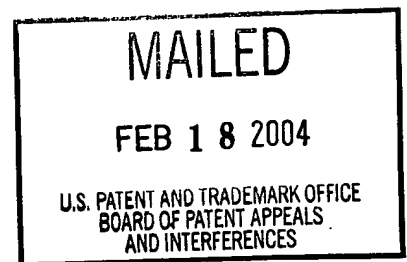
UNITED STATES PATENT AND TRADEMARK OFFICE

**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Ex parte JENNIFER HILLMAN and SURYA K. GOLI

Appeal No. 2002-1118
Application No. 09/208,619

ON BRIEF



Before WILLIAM F. SMITH, MILLS and GRIMES, Administrative Patent Judges.

MILLS, Administrative Patent Judge.

REMAND

Our consideration of the record leads us to conclude that this case is not in condition for a decision on appeal. Accordingly, we remand the application to the examiner to consider the following issues and take appropriate action.

DISCUSSION

The present application is remanded to the examiner because the record is unclear as to which claims are on appeal in the application. It would appear from the record that the last amendment to the claims which was entered was amendment C (Paper No. 11) filed October 2, 2000. However, appellants submitted an amendment with the Appeal Brief (Paper No. 17) filed May 25, 2001. There is no clear indication in


the record that the amendment submitted with the Appeal Brief has been entered and considered. While the Examiner's Answer indicates that the Appellants' status of the amendments after final rejection is correct and the appealed claims contained in the Appendix to the Brief are correct, a question still remains as to whether the examiner has fully considered the amendment attached to the Brief as there are no specific comments of record regarding entry of such amendment.

We cannot rule on the merits of the claims, until it is clear what claims are before us.

This application, by virtue of its "special" status, requires an IMMEDIATE action. MPEP § 708.01(d). It is important that the Board be informed promptly of any action affecting the appeal in this case.

REMAND


WILLIAM F. SMITH
Administrative Patent Judge


DEMETRA J. MILLS
Administrative Patent Judge


ERIC GRIMES
Administrative Patent Judge

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